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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,215	01/19/2001	Bernard Agasse	11345.019001	3920

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OSHA LIANG L.L.P.  
1221 MCKINNEY STREET  
SUITE 2800  
HOUSTON, TX 77010

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

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06/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/744,215	<b>Applicant(s)</b> AGASSE, BERNARD	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15 and 31-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15 and 31-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to amended claims 15, 31-53 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-14, 16-30 have been canceled.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15 and 31-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US 6,536,041 B1) in view of Ellis et al. (US 2003/0149988 A1).

Regarding Claim 15, Knudson discloses a method for providing a user with options for accessing at least one of a plurality of received channels comprising at least one

Art Unit: 2623

channel and a service channel of a digital television system (see figures 1-3, 6, 13, 24) comprising the steps of:

generating a service menu for display on a display superimposed over a program transmitted on one of the received channel, the service menu comprising a list of menu items corresponding to a plurality of service available to a user (interpreted as user presses a remote control play key or suitable button (e.g., to make on screen menu selection), the program guide displays the controllable ticker on a display superimposed over a program transmitted one received channel (e.g. channel 4), the controller tickers comprises categories such as major league baseball, national Football league, NHL, news, etc. the user may select from different categories that are available— see include, but not limited to, figures 13, 14a, col. 8, lines 20-26; col. 13, line 49-col. 14, line 67);

generating, upon user selection of one of the listed services from the service menu, at least one subsidiary menu for display on the display superimposed over the program together with only the selected menu item corresponding to the selected one of the listed services to provide the user with a plurality of options for accessing at least one of the received channels (interpreted as user selects a particular category, e.g. Major League Baseball, a menu for selected category is generated and displayed superimposed over video for channel 4 together with only selected category, the selected category provides the user with a plurality of option for accessing at least one of the received channel such as user selects a received channel for displaying ORIOLES AT RED SOX, select TV icon 187 for record a program, tune to a program, set a reminder, etc. – see figures 13-14b; col. 13, line 50-col. 14, line 67), wherein the

selected menu item is originally displayed in a first location of the display, and wherein upon selection, the selected menu item remains in the first location of the display (interpreted as the selected category, for example, Major League Baseball, is originally displayed in the location of controller ticker 186, and upon user selection of the Major League Baseball category, The MLB remains in the location of the controller ticker 186—figure 13, col. 13, line 50-col. 14, line 67);

Knudson also discloses the menu as a controller ticker (figure 13). Thus, interference with the program is minimal.

Knudson further discloses generating and displaying messages such as a reminder for program (col. 8, lines 31-35; col. 9, lines 40-62). However, Knudson does not specifically disclose interactive message superimposed over the program, wherein the interactive message require a response from the user, and wherein the interactive message changes to the at least one of the received channels based on a positive reply from the user, and carrying out at least one payment step in response to a positive response to the interactive message from the user.

Ellis discloses interactive message superimposed over the program (see include, but are not limited to, figures 13a-13b, 14a –18c, 19, 23), wherein the interactive message require a response from the user (the interactive overlay requires a response “yes”, “OK”, “no” from the user – see include, but are not limited to, 14a –18c, 19, 23), and wherein the interactive message changes to the at least one of the received channels based on a positive reply from the user (e.g., in response to user selection of “Yes” or “OK”, to record or to watch to the program, the message change to the channel

Art Unit: 2623

the carry the requested program to be recorded or to be watched), and carrying out at least one payment step in response to a positive response to the interactive message from the user (in response to user selection of "Yes" or "OK", the user is required to confirm the payment/charge) – see include, but are not limited to, figures 14a-15b, 17, 18a- 18c, 19-20, 23, 26, 28, paragraphs 0129, 0131, 0134-0136, 0145-0146, 0151, 0161, 0185, 0188, 0195-0196) . Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to modify Knudson to use the teaching as taught by Ellis in order to improve convenience for user to order interest channel/program.

Regarding Claim 31, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. Knudson further discloses the list of services contained in the service menu (controllable ticker) is varied according to user's preferences (col. 16, lines 40-53).

Regarding Claim 32, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. Knudson further discloses the list of services contained in the service menu (controllable ticker) is ordered according to the preferences of the user (col. 14, line 28-col. 15, line 14).

Regarding Claim 33, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. The additional limitation of "control signals are received from a

remote control handset” is either met by control signals are received from a remote control (e.g. remote control 60 or input device, Knudson, figure 1, col. 7, lines 50-62) or (remote control 40 or input device, see Ellis, figures 7-8).

Regarding Claim 34, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 33. The additional limitation of “the service menu is generated for display on the display in response to the touch of a single dedicated key on the handset” is read on either Knudson’s disclosure of the screen menu on controller ticker is generated and displayed when user presses a remote control play key or other suitable (e.g. guide button to make an on screen selection) – col. 8, lines 20-22, col. 14, lines 39-44; or Ellis’ disclosure of displaying program guide screen in response to user selection of “Guide” key or “Menu” key on the viewer’s remote control device (figure 8).

Regarding Claim 35, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 33. The additional limitation of “the display of the list of service contained in the service menu is scrolled in response to command received from navigation keys of the handset” is read on Knudson’s disclosure (see figure 14b, col. 15, lines 30-54).

Regarding Claim 36, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. Knudson further discloses the service menu is scrolled around a

fixed bar displayed on the display (interpreted as scrolling around fixed controller ticker – see include, but not limited to, figure 14b, col. 15, lines 30-54).

Regarding Claim 37, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 36. Knudson further discloses that the fixed bar (e.g. controller ticker) include navigations arrows showing possible directions of movement of the service menu (e.g. Up arrow, down arrow, left arrow, right arrow – figure 13).

Regarding Claim 38, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. The additional limitation of “upon user selection one of the option from the subsidiary, a second subsidiary menu is generated for display on the display superimposed over the program together with the selected one of the listed services to provide the user with a plurality of further options for accessing at least one of the received channels” is read on Knudson’s disclosure of upon selection of down arrow from a particular associated item, a “subsidiary menu” of next associated item is generated for display on the displayed superimposed over the video for channel 4 together with the selected category, the “subsidiary menu” of the next associated item provides the user with a plurality of further options for accessing at least one of the received channel such as selection to tune to another item, selection to tune to a channel to watch, to record, to set a reminder, etc. – figures 13-14b, col. 14, lines 1-67).



Regarding Claim 39, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. The additional limitation of “the channel displayed on the display is changed in response to the selection of a particular option from a subsidiary menu” is read on either Knudson discloses of user selection of television icon 187 to tune to another channel for display program associated with selected channel – figures 13, 24, col. 14, lines 14-27) or Ellis’ disclosure (see include, but are not limited to, figures 10-15b).

Regarding Claim 40, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 39. The additional limitation of “from the received channels a service channel is accessed at a particular display screen within that service channel in dependence on the option chosen within a subsidiary menu” is interpreted as select a channel (e.g. channel associated with icon 187) from the received channels using the “subsidiary menu”, the selected channel is accessed – see Knudson - figures 13, 24, col. 14, lines 1-67).

Regarding Claim 41, Knudson in view of Ellis discloses a method as discussed in the rejection of claim 15. Knudson further discloses the menus contain regularly updated information (e.g. updated real time information, update program listings data) received together with the program over which the menu are superimposed – see figures 13, 20-24).

Regarding Claim 42, the limitations of the decoder as claimed correspond to the limitations of the method as claim in claim 15, and are analyzed as discussed with respect to the rejection of claim 15. Wherein the decoder is interpreted as the set top box and television display (see Knudson – figure 1). Knudson also discloses the menu as a controller ticker (figure 13). Thus, interference with the program is minimal.

However, Knudson does not discloses control unit is arrange to generate at least one interactive message displayed superimposed over the program, wherein the interactive message require a response from the user, and wherein the interactive message changes to the at least one of the received channels based on a positive reply from the user, wherein the decoder is configured to carry out at least one payment step in response to a positive response to the interactive message from the user.

Ellis discloses control unit (e.g., processor) is arrange to generate at least one interactive message superimposed over the program (see include, but are not limited to, figures 2b, 7, 9, 13a-13b, 14a –18c, 19, 23), wherein the interactive message require a response from the user (the interactive overlay requires a response “yes”, “OK”, “no” from the user – see include, but are not limited to, 14a –18c, 19, 23), and wherein the interactive message changes to the at least one of the received channels based on a positive reply from the user (e.g., in response to user selection of “Yes” or “OK”, to record or to watch to the program, the message change to the channel the carry the requested program to be recorded or to be watched), wherein the decoder is configured to carry out at least one payment step in response to a positive response to the

interactive message from the user (in response to user selection of "Yes" or "OK", a decoder is configured to carry out payment step requiring user to confirm the payment/charge or transmit payment charge information in response to user confirmation of the payment/charge to the billing system ) – see include, but are not limited to, figures 1, 7, 9, 14a-15b, 17, 18a- 18c, 19-20, 23, 26, 28, paragraphs 0129, 0131, 0134-0136, 0145-0146, 0151, 0161, 0185, 0188, 0195-0196) . Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to modify Knudson to use the teaching as taught by Ellis in order to improve convenience for user to order interest channel/program.

Regarding Claims 43-53, the additional limitations as claimed correspond to the additional limitations of the method as claimed in claims 31-41 respectively, and are analyzed as discussed with respect to the rejection of claims 31-41.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al. (US 2004/0117831A1) discloses interactive television program guide system and method with niche hubs.

Ellis et al. (US 6,898,762 B2) discloses client-server electronic program guide.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

June 14, 2007

  
SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER